

**AGENDA**  
**JANUARY 3, 2012 - 6:00 P.M.**  
**MEETING OF THE BOARD OF TRUSTEES**  
**OF THE INCORPORATED VILLAGE OF NORTHPORT**  
**REGULAR MEETING**

**OPEN MEETING:**

**SALUTE TO THE FLAG:**

**ANNOUNCEMENTS:** Mayor Doll announced the passing of Ex-Chief and former Trustee Robert (Bob) A. Howard

**PRESENTATIONS:**

**PUBLIC HEARINGS:**

**PUBLIC HEARING NO. 1**

**BE IT RESOLVED:** That a public hearing of the Board of Trustees of the Village of Northport will be held on January 3, 2012 at 6:00 PM in the Northport Village Hall 224 Main Street to consider the 2012-2013 tentative budget.

**PUBLIC HEARING NO. 2**

Continuation of Public hearing started December 20, 2011

**PLEASE TAKE NOTICE:** that a Public Hearing of the Village Board of Trustees will be held at the Village Hall, 224 Main Street, Northport, New York at 6:00 o'clock in the evening of the 20<sup>TH</sup> day of December, 2011, to consider the following proposed local law:

**PROPOSED LOCAL LAW "H" OF 2011**  
**A LOCAL LAW OF**  
**THE VILLAGE OF NORTHPORT TO AMEND**  
**CHAPTER 306 ZONING OF THE CODE**  
**OF THE VILLAGE OF NORTHPORT**

**BE IT ENACTED:** By the Board of Trustees of the Village of Northport as follows:

## **Section 1. Legislative Intent**

The Board of Trustees finds that amending the code to allow certain uses to be located in the Marine Business District as-of-right and by special use permit subject to conditions authorized by the Board of Zoning Appeals after a duly noticed public hearing will allow for a reasonable expansion of uses that will benefit the residents of the Village and surrounding community and also provide needed revenue to the owners of property located within the Marine Business District. By approving these code amendments, the Board seeks to strike a balance between the economic needs of the property owners where such uses will be located on the one hand, and the burden of such uses upon nearby properties on the other hand. The expansion of uses in the Marine Business District also furthers the Board's desire to expand economic opportunities in the Village in a reasonable manner. In the past, the Village has adopted legislation approving outdoor sidewalk and private dining, outdoor street fairs and other such expansion of permitted uses and activities both on a permanent basis and also on a temporary, seasonal basis. The Board recognizes that there currently are substantial limitations on the types of commercial uses within the Marine Business District and believes the time has come to expand these uses in a way that gives due consideration to real and tangible impacts upon nearby properties. Restaurant, outdoor dining and special events with outdoor music require a special use permit from the Board of Zoning Appeals, which is required to consider adverse impacts upon nearby properties and, if feasible, impose conditions which significantly mitigate those impacts. The BZA also is empowered to impose reasonable conditions upon any approval and to require property owners to return to the BZA on an annual basis to monitor compliance with these conditions. There are certain specified low impact uses which are codified as unconditionally permitted uses. These uses are related to the marine usage of property in the Marine Business District. In sum, the Board finds that the legislation furthers the intent of the Board to allow expansion of uses in the Marine Business District in a manner that is consistent with the zoning policies of the Village and which will not have significant adverse impacts to area properties.

## **Section 2. Statutory Authority and Supersession**

This Local Law is adopted pursuant to New York State Constitution, New York State Village Law, Municipal Home Rule Law and the State Environmental Quality Review Act and its implementing regulations and expressly supersedes inconsistent provisions of the Village Code.

## **Section 3. Applicability**

The provisions of this Local Law shall apply to all lands situated within the boundaries of the Incorporated Village of Northport which are located within the Marine Business District, as may be amended from time to time by the Board of Trustees of the Incorporated Village of Northport.

## **Section 4. Amendments**

Chapter 306 of the code of the Incorporated Village of Northport shall be amended as follows:

Explanation of notations:

Existing text is reproduced in normal type.

*Text to be added is indicated in Italics.*

Text to be deleted is indicated by ~~strikethroughs~~.

\* \* \* indicates existing text to remain unchanged.

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#### **§ 306-14. Marine Business District.**

A. Permitted uses. In the Marine Business District, lands shall be used and buildings shall be erected, altered or used only for the following purposes:

\* \* \*

- (4) Boatyard, including *new and used* boat sales *and brokerage* and marine sales, rental, repair and storage.
- (5) Marina for private profit.
- (6) *Insurance sales, provided that boat insurance is available; sale of marine parts and accessories, such as inflatable rafts, rowboats, outboard motors, boat and fishing equipment, water sports equipment, marine electronics and communication equipment, boat covers, marine hardware and boating accessories; boater's clothing, footwear and swimwear; boat and marine engine repair and maintenance; seafood sales, wholesale and retail; food provisions store, which may have self-service seating for no more than eight (8) customers and will not be considered a restaurant use;*
- (7) *Such uses for which a special use permit has been granted by the Board of Zoning Appeals under section 306-39(2)(g) of this Chapter.*

B. Prohibited uses. In the Marine Business District, no land shall be used and no buildings shall be erected, altered or used for any purpose whatsoever if such use is not permitted by Subsection A hereof. Additional, no use permitted by Subsection A shall be permitted if such use:

\* \* \*

- (5) ~~Is a restaurant or other eating establishment.~~ *Features outdoor music, including outdoor live or amplified music. Note: this restriction is not intended to regulate music generated for the personal entertainment of boat owners and their guests while on board boats that are in the water, which sound is subject to regulation by the noise restrictions contained in the Village Code at §200 et. seq.*

(6) *Is primarily a tavern or nightclub; a bar is permitted only if accessory to a restaurant use that has been granted a special use permit by the Board of Zoning Appeals pursuant to section 306-39(2)(g) of this Chapter.*

(7) *Floating restaurant.*

(8) *Ferries.*

(9) *Party boats.*

\* \* \*

### **§ 306-39. Jurisdiction.**

The Board of Appeals shall have jurisdiction in the following matters:

\* \* \*

B. Permits. To issue permits for any of the uses for which this chapter requires the obtaining of such permits from the Board of Zoning Appeals. Approval of special use permits shall follow the procedures set forth in Village Law § 7-725-b.

\* \* \*

(2) Specific requirements. In considering application for the following specific permits, the Board of Zoning Appeals, as a condition to its issuance of such permits, shall first determine that all the requirements indicated in the following provisions for such permit have been or will be met upon the issuance thereof and the satisfaction of which requirements shall be a continuing condition of the validity and existence of such permit. In addition to the minimum requirements hereinafter indicated, the Board of Zoning Appeals is also empowered to impose any further requirements or conditions to any permit which, in its opinion, are reasonably designed to further the interest and purpose of this chapter and which are in harmony with the provisions hereof.

\* \* \*

(g) *Marine Business District.*

[1] *Uses Permitted by Special Use Permit:* *The following uses shall be permitted in the Marine Business District by special use permit subject to the conditions noted herein and any conditions imposed by the Board of Zoning Appeals which are designed to mitigate adverse impacts of the proposed use: (i) restaurant which serves alcoholic beverages but which does not feature outdoor music, including outdoor live or amplified music, and which has a maximum indoor square footage of 1,500 sq. ft. per restaurant, with the maximum square footage devoted to all restaurants on the entire marina property not to exceed 15% of the total square footage of space within buildings devoted to retail uses,*

*excluding space devoted to boat repair, maintenance or storage; (ii) outdoor live and amplified music for no more than four (4) special events, each such event to be held on a single day between the hours of 12 pm and 8 pm, in any calendar year, for which a special use permit is obtained from the Board of Zoning Appeals; (iii) such other uses which the Board of Zoning Appeals finds is harmonious with existing uses and not harmful to adjacent properties*

- [2] *Standards to be Considered by the BZA:* *Before granting a special use permit the Board of Zoning Appeals shall take into consideration the following: (i) the impacts upon neighboring properties; (ii) traffic impacts, including adoption or modification of a parking plan as described in paragraph [3] herein; (iii) whether the floor area, seating or other physical attributes of a proposed use should be modified to mitigate adverse impacts; (iv) whether the specific location for the proposed use is appropriate; (v) whether the number of such uses should be limited due to impacts upon nearby properties; (vi) whether the proposed uses are in harmony with other uses on the subject property; (vii) all uses on the subject property must be lawfully existing before an additional use is granted; (viii) impact on municipal services; (ix) environmental and physical impacts of the proposed use; (x) whether the proposed use will be in compliance with the noise restrictions contained in the Village Code at §200 et. seq.; (xi) the Board of Zoning Appeals is authorized to grant special use permits of a limited time period and which require the owner and applicant to return to the Board of Zoning Appeals within a specified time period to monitor compliance with the BZA grant and to determine if any modifications are warranted due to the impacts within and upon abutting properties; (xii) Compliance with the general standards applicable to special use permits at code §306-39-B(1); (xiii) applicants requesting a waiver or variance from any permit requirement must set forth variance proof to support a grant of the requested relief and specify the nature of this request in the public notice posted on the property and mailed to adjacent property owners.*
- [3] *Parking Plan Requirement:* *Before granting a special use permit, the Board of Zoning Appeals must approve a Master Parking Plan (“MPP”) that provides for adequate parking for all on-site uses. The proposed MPP shall be referred to the Planning Board for review and recommendations. A MPP that has been approved by the BZA shall apply to all uses on the marina property. For as-of-right uses, the building inspector shall rely on the approved MPP as same may be modified by the BZA from time to time. A change in use or new use which triggers an increased parking requirement not provided for in the MPP shall require an application to the BZA. Changes in use or new uses which do not trigger an increased parking requirement shall be approved by the building inspector.*
- [4] *Outdoor Dining:* *Restaurant uses may be granted permission for outdoor dining subject to compliance with the following: (i) no outdoor music, including outdoor live or amplified music; (ii) all patrons outdoors must be at tables for the purpose of dining, where service of food and beverages, including alcoholic beverages, shall be by waiter/waitress service only; (iii) there shall be no congregating by patrons in outdoor areas for any other*

*purposes, except in a designated waiting area only if approved by the BZA; (iv) all outdoor areas shall be specifically designated on a seating plan approved by the BZA and devoted to tables for diners without any other activities; (v) outdoor seating prohibited after 10:00 p.m. Sunday through Thursday, except holiday eves and after 11:00 p.m. Friday, Saturday and holiday eves; (vi) except for a service bar, no bar area where customers are served food or beverages directly or where any bar stools or seats are located may be located outside; (vii) the BZA shall determine the maximum number of outdoor seating for each restaurant, but in no event shall seating for more than 100 persons in total for all outdoor dining on-site be permitted.*

- [5]     *Indoor Music Restriction:* *If live or amplified music is played indoors, then doors, windows or other openings must stay closed for the entire duration of such music, excepting such ingress and egress as is necessary for fire protection purposes and for general safety of patrons and employees. Furthermore, indoor music is permitted only until 9 pm on Fridays, Saturdays and Holiday Eves; on all other days, indoor music is permitted only until 8 pm.*
- [6]     *Pending Applications:* *As to pending applications for relief relating to the subject matter of the amendments, the applicant and property owner are required to re-apply under the enacted provisions of this code amendment.*
- [7]     *Lawfully Existing Uses May Continue:* *Lawfully existing uses may continue and are not required to obtain any relief from the BZA to continue. A change in any such use that triggers a greater parking requirement shall be required to apply to the BZA for relief and/or modification of an existing Master Parking Plan (“MPP”) unless there is an approved MPP which provides for sufficient parking for such change in use.*
- [8]     *Marine Business District Code Supersedes Restrictive Covenants:* *If there are restrictive covenants in effect for a property that conflict with these code sections for the Marine Business District, then these code sections and the Board of Zoning Appeals permits and variances granted hereunder shall supersede said restrictive covenants. The Board of Zoning Appeals is authorized to grant a modification of such covenants consistent with determinations it makes under this chapter.*
- [9]     *Enforcement.* *In addition to code enforcement officials of the Village, sworn officers of the Northport Village Police Department are authorized to issue summonses for any violations of this chapter and any violations of restrictions and conditions imposed by the Board of Zoning Appeals on any special use permits or other grants.*

\* \* \*

## **Section 5.     Severability**

If any clause, sentence, paragraph, subdivision, section or other part of this Local Law shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional or otherwise invalidated, such judgment shall not affect, impair or invalidate the remainder of this Local Law, and it shall be construed to have been the legislative intent to enact this Local Law without such unconstitutional, or invalid parts therein.

**Section 6.     Effective Date**

This local law shall take effect immediately upon filing in the Office of the Secretary of State.

**PUBLIC PARTICIPATION:**

**BOARD APPROVAL OF WARRANT:**

Fiscal Year 2011/2012 General Fund bills in the amount of \$ 123,352.69  
Fiscal Year 2011/2012 Capital Fund bills in the amount of \$ 1898.50  
Fiscal Year 2011/2012 Sewer Fund bills in the amount of \$ 2116.86  
Fiscal Year 2011/2012 Trust Fund bills in the amount of \$ 2689.00

**COMMISSIONER REPORTS:**

**CHIEF OF POLICE REPORT:**

**ADMINISTRATOR'S REPORT:**

**NEW BUSINESS:**

**OLD BUSINESS:**

**CORRESPONDENCE:**

**REQUESTS:** 1. Request from the Visiting Nurse Service to hold 12<sup>th</sup> Annual 5K race/walk May 12, 2012.

2, Request from the Winter Farmers Market to place a banner at the intersection of Reservoir Ave. / 25a and 5 signs at various locations around the Village for ten weeks.

**RESOLUTIONS:**

**RESOLUTION 2012 ~1 APPROVAL OF THE DECEMBER 6, 2011 MINUTES**

**WHEREAS:** Copies of the minutes of the December 6, 2011, meeting were sent to the Board for approval, therefore,

**BE IT RESOLVED** that said minutes are approved without reading, at this time.

**RESOLUTION 2012-2 ~ APPROVAL OF THE DECEMBER 20, 2011 MINUTES**

**WHEREAS:** Copies of the minutes of the December 20, 2011, meeting were sent to the Board for approval, therefore,

**BE IT RESOLVED** that said minutes are approved without reading, at this time.

**RESOLUTION 2012 - 3 ~ APPROVAL OF 2012 -2013 BUDGET**

**WHEREAS:** The Board of Trustees has met at the time and place specified in the notice of hearing on the tentative budget and heard all persons desiring to be heard therefore,

**BE IT RESOLVED:** That the tentative budget for the fiscal year March 1, 2012 to February 28, 2013, as hereinafter set forth is hereby adopted and,

**BE IT FURTHER RESOLVED:** That there is hereby levied a tax of \$\_\_\_\_\_.for said fiscal year, to which said budget is applicable upon the last completed assessment roll, and,

**BE IT FURTHER RESOLVED:** That the Village Clerk is authorized to extend and carry out upon the tax roll the amount to be collected from each of the persons named thereon.

**RESOLUTION 2012- 3 LOCAL LAW No. 1 OF 2012**

**WHEREAS:** a Public Hearing of the Village Board of Trustees was held at the Village Hall, 224 Main Street, Northport, New York at 6:00 o'clock in the evening of the 20<sup>th</sup> day of December, 2011, to consider the following proposed local law:

**LOCAL LAW No. 1 OF 2012  
A LOCAL LAW OF  
THE VILLAGE OF NORTHPORT TO AMEND  
CHAPTER 306 ZONING OF THE CODE  
OF THE VILLAGE OF NORTHPORT**

**RESOLUTION 2012 – 4 ~ POLLING PLACE AND HOURS OF ELECTION**

**BE IT RESOLVED:** that the next general election for the Incorporated Village of Northport will be held on Tuesday, March 20, 2012 between the hours of 6:00 a.m. and 9:00 p.m. The polling place for each election district shall be the Village Hall, 224 Main Street, Northport, NY 11768.

**RESOLUTION 2012- 5 RESOLUTION OF THE BOARD OF TRUSTEES  
THE VILLAGE OF NORTHPORT ISSUING SEQR NEGATIVE DECLARATION**



**RE: AMENDMENT TO CHAPTER 306 “ZONING” OF THE CODE OF THE VILLAGE OF NORTHPORT: §306-14 MARINE BUSINESS DISTRICT USES**

**WHEREAS**, the Village of Northport intends to amend §306-14 of its Village Code, regarding uses in the Marine Business District, to:

1. Allow for additional permitted and conditionally permitted uses; and
2. Prohibit outdoor music, live or amplified; and
3. Restrict the size of each restaurant use and the overall amount of space that can be used for restaurant use; and
4. Restrict the number of persons permitted for outside dining at any one time; and
5. Require the property owner to develop a Master Parking Plan; and
6. Require a consideration of impacts on nearby properties before a grant of any conditionally permitted uses; and

**WHEREAS**, the Board of Trustees of the Village of Northport has determined that this is an Unlisted Action under the State Environmental Quality Review Act (SEQRA); and

**WHEREAS**, the Board of Trustees of the Village of Northport declared its intent to be lead agency for the proposed action to amend section 306-14 of the Village Code , and

**WHEREAS**, the Board of Trustees of the Village of Northport, Suffolk County, New York, commissioned the preparation of a Long Form EAF to evaluate the potential environmental impacts of the zoning amendments and caused such EAF to be distributed in a coordinated review; and

**WHEREAS**, there has been no objection by any Involved Agency;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Trustees of the Village of Northport, Suffolk County, New York, as follows:

7. Based upon its review and consideration of the environmental record including a Full Environmental Assessment Form (EAF) under the State Environmental Quality Review (SEQRA) and other necessary criteria, the Village Board of Trustees hereby finds that (a) the proposed Project constitutes an “Unlisted” under SEQRA and that (b) the object of the above referenced Action will result in no major adverse impacts and, therefore, is not an Action which “may have a significant effect on the environment” and that since said Action will not have a “significant effect on the environment”, no “environmental impact statement” need be prepared, as such quoted terms are defined in the applicable SEQRA Regulations.
8. By reason of the foregoing, the Village Board hereby authorizes and directs the

Village Mayor to execute and file a Negative Declaration in the form attached hereto and to sign and date the Full Environmental Assessment Form (EAF), confirming that the Project and all actions related thereto will not have a significant impact on the environment.

9. The Village Board hereby authorizes and directs the Village Mayor and the Village Clerk to forward copies of this Resolution and the Negative Declaration to the appropriate agencies.
10. The Village Clerk is hereby directed to maintain for public inspection a file containing a copy of this Resolution, the Negative Declaration and all submissions to date concerning the Environmental Review of this Project and all Actions related thereto.
11. This Resolution shall take effect immediately.

The next regular meeting of the Board of Trustees will be on January 17<sup>TH</sup>, 2012 at 6:00 P.M

**A RESOLUTION FOR AN EXECUTIVE SESSION:** if necessary, for personnel and/or litigation matters.

Respectfully submitted,

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Donna M. Koch  
Village Clerk